Create a Foundation

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Frequently Asked Questions (FAQ)

NOTE: We do not claim to be Legal, Business, Taxation or Financial advisors in any way whatsoever, and are not authorised by any government agency to give Legal or Financial advice.

We operate privately from firsthand knowledge and experience, and only offer suggestions and general advice to those who ask for it. We do not and cannot know of, or accept any responsibility for any person's individual set of circumstances in any way shape or form.

We state clearly in all documentation, that it is you, the individual's responsibility to research, study and understand all aspects of the process that you have undertaken and to back yourself in your beliefs, whatever they may be.

What is the difference between a Not-for-Profit-Organisation and a Humanitarian Not-For-Profit Non-Government-Organisation?

Our Foundations operate freely in the private for the purpose of exercising our natural inalienable rights for sustenance and helping our fellow man as you see fit by giving back to the community. A humanitarian NFP operates for the purpose of humanitarian aid in the public (or Publicly registered Charity) and is not to be confused with privately operating Foundations.

Our Foundations are represented as religious, humanitarian not-for-profit, they are NOT charitable foundations or Trusts and therefore any charity concessions sought through the use of your foundation would be considered false, misleading, dishonourable and is definitely not the purpose of private operating foundations for sustenance.

Create a Foundation supports many humanitarian causes and we strongly advocate the use of our Foundations with integrity and for the furthering of religious and Humanitarian Causes. Any member seen to represent their Foundation(s) as charities for monetary discounts or concessions will be deemed as conducting themselves dishonourably and removed from the membership.

Does my foundation need to be shown to be actively involved in charity, benevolence, religious or other humanitarian endeavours to justify its tax exempt status in any way?

We can't stress enough that our foundations are NOT set up for the purposes of tax avoidance. Their primary purpose is to encourage, promote, foster, and support, love, & cooperation between humanity, through 'means of eliminating competition, conflict, poverty, slavery and disharmony and rivalry in all the subtle and gross forms that they assume in the various spheres of life', so fostering peace and love.

Because of this we ask everyone who wishes to proceed with the set up of a foundation to search their heart for the real reason they are doing this and not to proceed unless they are doing so for the reason of supporting others and creating a better world.

You will see on all of our websites how seriously we take giving back. We support many and various causes, not the least of which is our ongoing commitment to helping save girls from the sex slave industry through the fabulous work of Free to Shine.

How old do the Participants need to be?

A minimum of 2 participants and a maximum of 5 participants.

I am single – can I be the sole Participant?

No. However you can have a 'silent' participant which is reflected in the Minutes. The Minutes will outline that they have no access to the account whatsoever, and also no responsibility or liability in the same regard, and are there for the purpose of establishment so that the foundation can commence work on its goals and objectives.

If I have 5 participants on the foundation can I have 5 debit cards for the account?

Yes.

Can I have a participant removed from the Foundation?

Yes. You can amend the Articles at any time, and make mention in the documented Minutes of the action and reason for it. You need to notify the bank of the changes to the Articles of Association in writing. You can make these amendments yourself, or we can reissue your documentation for you for a small fee.

Does the participant that is being removed have to sign?

Yes, and particularly so if they have access to the bank accounts.

What paperwork is involved in removing them?

The bank will get you to sign their documents to change the account accordingly and the Articles of Association will have to be altered and new banking Minutes supplies to the bank.

Can I then add another Participant to the account?

Yes.

Are there any bank fees?

No, except for external transactions. (i.e Paypal or credit card facilities have external charges) This is true and correct as at the time of printing this document, but may be subject to change by the bank.

Can I get a Debit card with this account?

Yes, it acts as a MasterCard debit account with access to EFTPOS terminals and ATMs around the world with full service internet banking facilities.

What is a token used for?

A Westpac bank electronic security token is ordered on the account if you are going to transfer more than $1,500 to another account, via the Internet The token has a long digit number than changes every 60 seconds for security purposes. You input this digit number when transferring the funds electronically. With CBA, for security purposes, rather than a token you will receive via SMS on your mobile phone, a Netbank Code to input when making transactions.

Can I add or take away sections of the Articles of Association?

Yes. All you need to do is let us know what content you want added/taken away and we will amend them for you (for a small fee), or you can do this yourself. The Articles of Association are your documents, your Canons of Conduct and as such are yours to amend at will.

Do we have to do regular minutes?

You may have regular Minutes if you choose but it is not a requirement. Create a Foundation sets up the Minutes of the first meeting with the Articles of Association. It is suggested that you do one set of Minutes per year, reapproving the Articles of Association for a further 12 months

Can I borrow against a Foundation e.g. Home Loan?

So far, we haven't had any of our custodians borrow using a foundation, as we do not encourage the perpetuating of a fraudulent banking system which promotes capitalism without consideration for the betterment and sustainability of humankind or the environment. In our opinion however, we believe it is possible to do so and can recommend you to traditional professionals who may be able to help in this area.

Is there a merchant facility available with a

Foundation?

YES both banks that we work with offer merchant facilities.

Westpac offers a payment platform called Pay Way which you can apply for separately after your foundation is open and operating. You will be assessed by Westpac as to your need for the system and approved or not by them.

CBA also offers a merchant facility and you can find out more about it from your local branch.

However you may also use merchant facilities via Paypal through your foundation, as long as you do not try to apply for charity rates through Paypal which is deliberately false and misleading (you are not a charity you are operating privately), and also you will need an ABN which does not apply when using our foundations.

Would it matter what time of year I set up a Foundation as to whether you would have to pay tax for the remainder of the year?

No, you can open up your foundation and start operating at any time. If you choose to volunteer to pay income tax, simply volunteer and declare your income up until the point where you started your foundation. You should seek independent advice regarding your specific circumstances regardless.

What would I do if someone refuses to not pay me GST and demands that they want to pay the GST to me?

You cannot accept it. You are NOT registered to collect or remit money on the behalf of the government. Ensure you are competent in your understanding (comprehension) of the relevant rules regarding GST and the foundation, and simply advise them of the correct way to handle the matter in conjunction with explaining to them the use of the ATO form 3346. It is an offence to collect and then not remit GST.

Can donations through foundations be tax deductible for others?

No. Tax deductibility can only occur if you register for an ABN and obtain DGR status which is not possible through our foundations.

If I am a PAYG earner would a Foundation be an

option for me?

Yes. If your employer is willing to engage you on a contractual basis, or you are able to comprehend the use of the Foundation for the benefit of humanity and work between the Public and Private realms. Operating Privately is of benefit to everyone.

How would I best explain this to my boss?

We have had quite a few people that end up operating this way. PAYG employees enter into a contract arrangement with their employer, and use their foundation.

They discussed the advantages of being a contractor with their employer, which includes savings for the employer on payroll tax, superannuation, holiday and sick pay. You would simply send an invoice to your employer (well former employer… now client) for them to pay it into your Foundation account. You do not really need to go into further details of why you are operating a Foundation. We can help further here if you want to know what to say etc…Not all employers will be open to this, but our experience shows that around 50% have been….

Another successful explanation is the fact that you have opened the Foundation for Religious, Humanitarian and Charitable reasons, and in the future you would like all payments to go into the Foundation account to further benefit your chosen purposes.

Why is it that our accountant doesn't know what I am talking about?

Most accountants are not aware of this technology or system – it certainly isn't common knowledge, as it is often used by only the very wealthy. Additionally this technology greatly reduces the need for tax accounting services which would compromise their livelihood, so it is not in their best interests to 'know' about it.

We have numerous accountants and lawyers who you can speak with who do understand the N-F-P-Foundation structure.

How does moving to a foundation structure affect my accounting, bookkeeping and bottom line?

We do not claim to be business or taxation advisors, therefore cannot give this advice directly. The majority of people who operate foundations use basic bookkeeping to maintain their own personal records of private operation. You are not required by any outside entities to use an accountant as your Foundation is not registered with any PUBLIC entities and is deemed to be self-assessable at the time of establishment.

What you do with it and how you operate it after that is entirely your decision and responsibility.

Will I need to submit tax declaration forms and ongoing BAS?

You will not be applying for an ABN, therefore you are not authorised to collect GST which means you will not be submitting a BAS. If you choose to declare that you wish to pay tax that is entirely your choice. Again, we strongly suggest that you understand your own circumstances and if needed, seek independent advice in relation to your own specific needs.

How do the Foundation's bank accounts remain out of the ATO's jurisdiction?

The foundation we set up for you is a private foundation and is not registered in any way. It has no ABN, no ACN and no TFN. It therefore does not come under the jurisdiction of the ATO or ASIC or the Corporations Act, as only registered entities do.

The funds in the foundation are the funds of the foundation and are not your personal funds.
You are merely a signatory on the foundation accounts.

Will the foundation account transactions be tracked?

Please see a link about tracking of transactions over $10,000 (Austrac)
http://en.wikipedia.org/wiki/Australian_Transaction_Reports_and_Analysis_Centre

Can I transfer directly from my foundation account into my personal (Strawman) account?

You are able to make such a transaction of course. However, there may be tax liabilities incurred if you do so. Please speak with an accounting professional before doing this, so you can be made aware of any potential liabilities.

What ongoing fees and responsibilities are there?

As your foundation is private it has no ASIC reporting or fee obligations or taxation reporting and compliance obligations.

What happens if I want to trade under my new

Foundation but I have an existing business?

You can start operating your new foundation as soon as it has been set up. You can choose to close down your existing business, complete the existing financial reporting requirements and pay to have it deregistered, or you may wish to operate both systems. If you do not pay company renewal fees the ASIC will generally automatically deregister you, so you may wish to wind it up in accordance with their advice.

Can I claim tax deductions on tools and materials if I trade under my new Foundation?

As your foundation is private and is tax exempt you will not be putting in any tax returns so you would not be able to claim expenses. If your circumstances are such that you will have high expense overheads or be paying large amounts of GST, you may need to operate the hybrid model so you can claim these via a registered entity such as a sole trader, partnership or company.

What is the 3346 used for? How often do I use this?

The form 3346 is a form provided by the ATO which is a statement by the supplier as to the reason for not quoting an ABN, therefore not collecting GST on the transaction.

You can review the form and details at: https://www.ato.gov.au/uploadedFiles/Content/MEI/downloads/Statement%20by%20a%20supplier.pdf

You will be selecting the box which says the reason for not quoting an ABN is wholly of a private or domestic nature (from the supplier's perspective).

If I supply a 3346 form to a supplier can I be exempt from the supplier charging me GST?

Some of our clients have given this form to suppliers to advise they are not-for-profit, non-government-organisations and sometimes they are able to negotiate with that supplier so they don't charge them GST. You can try that if you like and see what happens. Of course the worst thing that will happen is that you will still be charged GST.

Are there any particular circumstances or actions that would attract the attention of the ATO?

Your foundation is a private foundation and is not registered in any way. It does not come under the jurisdiction of the ATO.

What other businesses transfer to a Foundation?

We have had many businesses transfer to a foundation including all kinds of healers, IT, jewellery shop, bike traders, internet marketing businesses, builders, lawyers, personal trainers, mechanics, photo/media, market stallholders, property valuers, contractors amongst many others…

I can't find any information regarding Foundations - are they lawful?

Yes they are completely lawful, but you won't find much at all on foundations or on how most people operate them, as they are generally private entities. Current statistics state that there are currently over 800,000 N-F-P-organisations operating within Australia, with approximately 177,000 registered with the ATO. Create a Foundation is one of the only 'retail' organisations offering the general public access to this product.

We can provide you introductions to both accountants and lawyers who understand the way we work and the N-F-P-Foundation structure.

I do a lot of overseas trading – is it possible to still operate a Foundation for this?

Yes. You are set up with internet banking so any overseas transactions you wish to do the bank will provide you with a swift code for you or the other person who is going to submit funds into your account. Also Foundations are an internationally recognised vehicle.

Will I be able to get an ABN with a Foundation?

No. If you require an ABN for licensing purposes you may wish to consider a 'hybrid' model where you combine public and private operation. Again, we are not business advisors so how you structure your business is up to you.

Will I be able to keep my dot com website if I operate a Foundation? What web domain would I then need to use if I established a Foundation?

Yes. You can keep your dot com website. You will not be able to obtain an .au website because that requires an ABN through your Foundation, however you may wish to consider a hybrid model of operation as stated above.

I have other business partners who would like to transfer to a Foundation to become Foundation

Participants – how can we set this up with the Articles of Association?

Yes. As mentioned earlier, we can add to the Foundation and Articles of Association at any time. You can also refer your partners and friends to us, and we can help them set up their own N-F-P-Foundation.

Can Foundations buy and own shares?

This point is unclear. Currently you will need an ABN to buy and own shares using a foundation, however we are led to believe that you may do so via a custodian. Your own accountant will be able to help you on this point, and we can refer you to others who have a better understanding of the complexities.

Can Foundations buy and own assets?

Foundations are able to own and acquire assets that compliment the chosen purpose of the Foundation as set out in the Articles of Association. Foundations in general normally just hold assets such as money or precious metals.

If you wish to hold real estate and other assets such as vehicles, then you may wish to consider establishing a Private Trust at the same time, or down the track after establishing your Private Foundation.

We would suggest that you seek independent advice from your own financial advisor regarding your specific circumstances, or consult with one of our associated professionals.

If a Foundation can't hold assets such as a house or car, then is it okay for repayments for these items to be moved from my strawman account to the foundation account?

If you are using these items to help you carry out your work for the foundation then this would come under the area of sustenance, otherwise you may wish to consider setting up a Private Trust that is able to hold assets.

If I make the Donation and decide that I don't want to proceed, can I get a full refund?

No, once the funds are transferred they are NOT refundable. It is further noted, that as the funds are distributed IMMEDIATELY to the various parties needed to complete the task, including to the Philanthropic entities supported by us, they are not able to be recouped, so PLEASE ensure that you are 100% committed to the process BEFORE sending any funds to CAF.

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